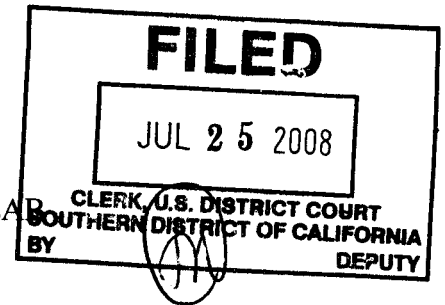


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA



UNITED STATES OF AMERICA,

Plaintiff,

vs.

FRANCISCO ESPARZA-GUTIERREZ,

Defendant.


CASE NO. 08CR416-LAB  
USCA NO. 08-50157

NOTICE OF HEARING

Please take notice that the above-entitled cause has been set for APPEAL MANDATE HEARING on petition requisite to filing certified copy of judgment from U.S. Court of Appeals **reversing and remanding** the decision of U.S. District Court, Southern District of California at 3:00 p.m. on 7/28/08, in courtroom 9, U.S. District Court, 940 Front Street, San Diego, California.

The Court informs the parties that the spreading of the mandate upon the minutes of the district court record is a ministerial task in which the appellate court's decision is filed and the case is returned to the jurisdiction of the district court. If this Court's decision has been affirmed and no additional proceedings in this court are necessary, the parties are not required to attend the hearing. If this Court's decision has been reversed, however, the parties shall attend the hearing and should be prepared to discuss the status of the litigation and their suggestions on how to proceed.

W. SAMUEL HAMRICK, JR., CLERK

by   
Deputy

T. WACHAM

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

**JUL 24 2008**

**MOLLY C. DWYER, CLERK OF COURT  
U.S. COURT OF APPEALS**

**UNITED STATES OF AMERICA,**

**Plaintiff - Appellee,**

**V.**

**FRANCISCO ESPARZA-GUTIERREZ,**

**Defendant - Appellant.**

**No. 08-50157**

**D.C. No. 3:08-cr-00416-LAB-1**

**Southern District of California,  
San Diego**

**MANDATE**

**The judgment of this Court, entered 7/24/08, takes effect this date.**

**This constitutes the formal mandate of this Court issued pursuant to Rule  
41(a) of the Federal Rules of Appellate Procedure.**

**FOR THE COURT:**

**Molly C. Dwyer  
Clerk of Court**

**By: Gabriela Van Allen  
Deputy Clerk**

**FILED**

**NOT FOR PUBLICATION**

**JUL 24 2008**

**UNITED STATES COURT OF APPEALS**

**MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

**UNITED STATES OF AMERICA,**

**Plaintiff - Appellee,**

**v.**

**FRANCISCO ESPARZA-GUTIERREZ,**

**Defendant - Appellant.**

**No. 08-50157**

**D.C. No. 3:08-cr-00416-LAB-1**

**MEMORANDUM\***

**Appeal from the United States District Court  
for the Southern District of California  
Larry A. Burns, District Judge, Presiding**

**Submitted July 14, 2008 \*\***

**Before: SCHROEDER, LEAVY and IKUTA, Circuit Judges.**

**Appellee's unopposed motion for summary reversal and remand is granted.**

***See United States v. Forbes*, 172 F.3d 675, 675 (9th Cir. 1999).**

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Appellant's request for immediate issuance of the mandate is granted. The mandate shall issue forthwith.

**REVERSED and REMANDED.**